

Order below Exh.1 in Cri. Bail Application No.346 /2022
(Samir @ Pappi Abdulrafiq Shaikh Vs. State)

This is an application, for pre-arrest bail u/s. 438 of the Cr.P.C. in Crime No.I-59 of 2022 registered with Bhadrakali Police Station, Nashik u/ss. 395,452,504,506 of The Indian Penal Code(IPC).

2. The learned counsel Mr.F.A.Inamdar for the applicant submits that, applicant/accused 1 is innocent person and he has been falsely implicated. He was admitted in the hospital at the time stated in the F.I.R. and he is still under medical treatment. Applicant/accused 1 is ready to abide by any of the terms and conditions to be imposed by this Court. He is labour. He has got fixed and permanent place of residence, and undertakes to cooperate investigation.

3. Learned A.P.P. Mr. R.M. Baghdane, by filing pursis (Exh.7) adopted say (Exh.6) filed by Investigation officer (I.O.) and strongly objected this application. He contends that, accused 1 is habitual offender, the offence is serious in nature and exclusively triable by Court of Sessions. Investigation is incomplete, co-accused is yet to be arrested , property is yet to be recovered, and the applicant may tamper or hamper prosecution witnesses or evidence. I.O. present.

4. Perused record. Prosecution's case is that, while the informant was present near his house at stall, accused person namely Samir @ Pappi,Bablu, Guddu @ Butkya, Saijuddin, Sultan and Rimya came there. Samir @ Pappi asked informant, as to where is his son Badshaha to which informant told that, he did not know. Bablu told informant to tell his son Badshaha that he is going to contest election of Municipal Corporation and tell him to do his work only. Samir @ Pappi slapped informant and pushed him aside and without consent of the informant forcibly took away Rs. 1,200/- from his cash counter. Thereafter, all the five accused persons entered into the house of Firoz, the elder son of the informant, abused in filthy language and slapped three daughters-in-law of the informant and threatened.

5. Applicants' case is that informant's son Samir @ Badshaha is a habitual criminal and various cases are pending against him. He had demanded extortion amount of Rs. 3,00,000/- from Samir Rafiq Shaikh the younger brother of applicants 1 & 2. As he refused, on 06.03.2022 at about 7.30 p.m., Samir @ Badshaha, his brother Riyaj Bochia, Yakub Shaha, Firoz Shaikh, Atik @ Gendya Ansari, Sadab @ Saddu Shaikh, Imran Kureshi @ Ghoshwala accosted Samir Rafiq Shaikh, brother of applicants 1 & 2 started abusing pushing and beating him , as he did not satisfy extortion amount. Hence, he lodged FIR bearing C.R.No. 58/2022 u/s.307,143,147,148,149, 504, 506 of IPC against them.

6. Perusal of record reveals that, property is yet to be recovered. There is direct involvement of applicant/accused 1 in the crime which is triable by the exclusively by the Court of Sessions. It is punishable with imprisonment for life, or rigorous imprisonment for 10 years and fine. Though, one of the accused has been arrested in this C.R. but no property has been recovered. In the circumstance, custodial interrogation is necessary for the purpose of investigation on the above grounds. Whether, applicant/accused 1 was present or not at the scene of occurrence, can be dealt with during trial and not at this stage. He has previous criminal antecedent. Consequently, grounds raised by learned Advocate of the applicant/accused 1, is not satisfactory. Hence, I am not inclined to exercise my discretion in his favour to release him on bail. In the result, I pass the following order.

ORDER

This application stands rejected.

(S.T. Tripathi)

Date : 21.03. 2022.

Additional Sessions Judge-7,
Nashik.